

1982 WL 189426 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 15, 1982

*1 Honorable Henry Dargan McMaster
United States Attorney
District of South Carolina
Post Office Box 2266
Columbia, South Carolina 29202

Dear Mr. McMaster:

Inquiry has been made as to whether a dual office-holding problem is presented when a solicitor of this state is designated by the United States Attorney General to assist United States Attorneys as authorized by the provisions of [28 U.S.C.S. § 543](#).

The authorizing legislation provides for such appointment 'when the public interest so requires.' Such designations of state prosecuting officers is clearly done for service at intermittent periods and is not upon a continuing basis. Therefore, one of the principal indicia within the meaning of the dual officeholding provision of our State Constitution is lacking. Sanders v. Belue, 78 S.C. 171, 55 S.E. 762. In addition to this conclusion, frequently expressed opinions of this Office have heretofore considered that the dual officeholding provision to which the solicitors of the state are subject is no inhibition against holding a federal office while at the same time occupying a state office. There are exceptions to this for other positions, such as the Governor and other constitutional officers, but that is not applicable here.

For the foregoing reasons, it is the opinion of this Office that a solicitor may accept appointment as a special prosecuting attorney under the provisions of [28 U.S.C.S. § 543](#) without violating the dual officeholding provisions of the Constitution.

Very truly yours,

Daniel R. McLeod
Attorney General

1982 WL 189426 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.